UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/SP/53
26 January 1994

ORIGINAL: ENGLISH

MEETINGS OF THE STATES PARTIES
Fifteenth meeting

LETTER DATED 17 JANUARY 1994 FROM THE CHARGÉ D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I should be grateful if you would circulate the enclosed statement as a document of the fifteenth meeting of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

Annex

STATEMENT OF AMBASSADOR DRAGOMIR DJOKIĆ, CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS, AT THE FIFTEENTH MEETING OF THE STATES PARTIES TO THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, HELD ON 17 JANUARY 1994

The delegation of the Federal Republic of Yugoslavia expresses its strong objection with regard to the attempts by certain States parties to the Convention to challenge participation of the Yugoslav delegation in this meeting.

As we have already explained in the aide-mémoire which is, we believe, distributed to all States parties, any action in connection with Yugoslavia's participation in this meeting is unfounded and inconsistent with the letter and spirit of the Convention and the rules of procedure for this meeting and, therefore, shall be the sole responsibility of those States parties which initiated and supported such action.

Various arguments advanced by some delegations, trying to invoke General Assembly resolution 47/1 of 22 September 1992 and the issues of succession and continuity of the former Socialist Federal Republic of Yugoslavia as a pretext for their action, are unwarranted and falsely construed.

For the sake of clarity, allow me to briefly state some of the reasons which support the above-mentioned conclusions.

1. The Socialist Federal Republic of Yugoslavia became a State party to the International Convention on the Elimination of All Forms of Racial Discrimination on 4 January 1969.

2. In the Declaration of the Assembly of the Federal Republic of Yugoslavia dated 27 April 1992, it was clearly stated that the Federal Republic of Yugoslavia will continue the state, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia and that it undertakes to honour all international obligations of the former Socialist Federal Republic of Yugoslavia, including those arising from international instruments on human rights.

3. This position is unequivocally supported by rules of international customary law which are codified in the 1978 Vienna Convention on Succession of States in respect of Treaties (arts. 34 and 35).

4. The status of the Federal Republic of Yugoslavia as a party to treaties is not in any way affected by General Assembly resolution 47/1, which pertains solely to non-participation in the General Assembly. According to the opinion of the United Nations Legal Counsel contained in document A/47/485: "The resolution does not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies." According to another opinion of the United Nations Legal Office dated 16 November 1993: "The status of Yugoslavia

as a party to the treaties is not affected by the adoption of General Assembly resolution 47/1 ..."

5. The delegation of the Federal Republic of Yugoslavia has been officially invited to this meeting, for which it has duly submitted full powers.

6. The present meeting is not an appropriate forum for the discussion of either issue arising from the succession of the former Socialist Federal Republic of Yugoslavia or the status of the Federal Republic of Yugoslavia in the United Nations. These issues are under consideration within the International Conference on the Former Yugoslavia and in the United Nations.

7. The Federal Republic of Yugoslavia clearly expressed its readiness and resolve to honour all its duties and obligations arising from the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee on the Elimination of Racial Discrimination at its forty-third session in 1993 (A/48/18) welcomed the timely submission of the report of the Federal Republic of Yugoslavia and the presence of a delegation as an indication of the State party's willingness to continue the dialogue with the Committee. In the spirit of cooperation, the Federal Republic of Yugoslavia welcomed the fact-finding mission of the Committee which visited Yugoslavia at the end of 1993.

8. Therefore, the least required from the Federal Republic of Yugoslavia, as a State party to the Convention, is to participate in the meetings of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

In view of those arguments, my delegation is fully convinced that, in fact, the action to suspend Yugoslavia's participation in this meeting is entirely politically motivated in order to satisfy one-sided and myopic interests of certain States.

We would like to emphasize once again that such legally unfounded and politically motivated action may set a dangerous precedent with respect to the status of the States parties to the Convention and create serious obstacles in its implementation.

It should be understood that the denial of the legitimate right of the Federal Republic of Yugoslavia to participate in the meeting of the States parties would at the same time imply the suspension of its obligations arising from the Convention. Therefore, it would mean that Yugoslavia will not be obliged any more to implement the provisions of the Convention.

This will result in suspension of the activities and cooperation of the Federal Republic of Yugoslavia with the Committee on the Elimination of Racial Discrimination. Moreover, unfortunately, the Committee will not be in a position to request the Federal Republic of Yugoslavia to undertake any activity under the Convention, or to send any fact-finding mission to its territory.

We would like to remind the States parties that this Convention belongs to a special category of treaties whose beneficiaries are not States but individual human beings. That was exactly the reason why the International Court of

Justice, in the so-called Barcelona Traction case, ruled that international human rights instruments are valid erga omnes and should be accorded a privileged status, i.e., that they should be universally accepted.

Therefore, my delegation does not request anything which is beyond its status as a State party to the Convention, i.e., to continue to honour its commitments under the Convention in order to ensure that human beings are protected against all forms of discrimination.

Consequently, my delegation strongly opposes any kind of pressure or imposition of rule of the majority by any group of States. To accept such an approach inspired purely by political reasons would be disastrous both for the cooperation of States parties and the future implementation of the Convention. This would only result in the creation of chaos in international relations and blatant disregard of basic principles of international law and the Charter of the United Nations concerning universality and sovereign equality of States.

We are convinced that there is nothing in the proposal of the States parties which challenged the participation of the Federal Republic of Yugoslavia that justifies their attempts to undermine the above-mentioned universal values. If the States parties are resolved to do so, my delegation wishes to clearly disassociate itself from such an action.